

Application No. 10/656,324
AMENDMENT C dated April 3, 2006
Reply to Office Action of November 2, 2005

AMENDMENTS TO THE DRAWINGS

Please replace drawing sheets 1-8 containing FIGS. 1-8 with the attached Replacement Sheets 1-8 containing FIGS. 1-8.

Attachments: Replacement Drawings sheets 1-8; and

Annotated sheet showing the change made to Fig. 1.

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REMARKS

Initially, Applicants would like to thank the Examiner for the telephone conversation of November 29, 2005 with Applicants' representative, during which the Examiner stated that the USPTO system failed to contain a previously submitted revocation of power of attorney. The Examiner therefore requested that the undersigned resubmit the appropriate documentation to ensure future correspondence with respect to this matter will be sent to the correct representative's address.

In accordance with the Examiner's request, Applicants direct the Examiner to the Appendix attached hereto, which includes photocopies of papers submitted to the United States Patent & Trademark Office on September 2, 2004, as evidenced by the Certificate of Mailing provided thereon. The papers include a POWER OF ATTORNEY BY ASSIGNEE, which serves both as a revocation of the Applicants' previous representation before the USPTO, as well as a new Power of Attorney appointing the practitioners associated with Customer Number 22242 to prosecute the instant case.

Additionally, the receipt of these papers at the USPTO is evidenced by the return postcard stamped September 7, 2004, a copy of which is also included in the Appendix. Thus, Applicant respectfully requests that all further correspondence in the instant case be directed to the correspondence address associated with the above-identified Customer Number.

With respect to the presently outstanding Office Action, Claims 1-28 are pending in the above-captioned application. Claims 1, 7, 8, 14 and 21 have been amended. New claims 23-28 have been added for examination. In the Office Action, the drawings were objected to under 37 CFR §1.83(a) and the specification was objected to for including an informality. Claims 1-21 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Claims 8-11 and 13-22 were rejected as being anticipated under 35 U.S.C. 102(b). Claims 1, 4 and 7 were identified as being allowable if rewritten with the same scope and to overcome the 35 U.S.C. §112 rejections. Claims 2, 3, 5, 6 and

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12 were identified as being allowable if rewritten in independent form and amended to overcome any 35 U.S.C. §112 rejections. Each of these rejections/objections will be addressed in turn below.

I. Drawing Objections Under 37 C.F.R. §1.83(a)

The drawings were objected to under 37 C.F.R. §1.83(a) for failing to show each and every feature of the invention specified in the claims. More particularly, the drawings were objected to because they fail to show a “planar” and a “base,” as recited in previously submitted claim 21. Applicants submit that Fig. 1 has been amended to include reference numeral “1” and paragraph 0015 of the specification has been amended to clarify that reference numeral “1” pertains to the “planer” discussed throughout the application. Claim 21 has also been amended to eliminate the objectionable “base” language. Support for these amendments can be found throughout the application, and in particular in paragraphs 0001 and 0004 to 0015, the abstract and original claims of the application, and in drawing Fig. 1.

The drawings were also objected to for failing to be numbered 1 of 8, 2 of 8, etc. Applicants submit that new Replacement Drawing sheets including appropriate numbering are attached hereto and, therefore, respectfully request reconsideration and withdrawal of these objections.

Applicants submit that these amendments are neither narrowing nor made for purposes of patentability. Thus, no equivalences are intended to be surrendered by the making of these amendments.

II. Objections to the Specification

Page 1, line 4 of the Specification was objected to for reciting the term “plane.” The Examiner suggested replacing “plane” with the term “plank.” Applicants submit that the corresponding portion of the Specification has been amended herein according

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to the Examiner's suggestion and, therefore, respectfully request reconsideration and withdrawal of this objection. Applicants thank the Examiner for bringing this typographical error to their attention.

III. Rejections Under 35 U.S.C. §112, Second Paragraph

Claims 1-21 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as their invention. Each of the Examiner's specific rejections will be addressed.

Further Comprising

Claim 8 stands rejected for reciting "further comprising." The Examiner suggested amending the claim to more properly recite "comprising." Applicants have amended claim 8 accordingly and, therefore, respectfully request reconsideration and withdrawal of this rejection.

The Angle

Claims 1, 8, 10 and 14 stand rejected for lacking antecedent basis for "the angle." The Examiner suggested amending the claims to more properly recite "an angle." Applicants have amended claims 1 and 8 per the Examiner's suggestion. Applicants respectfully assert, however, that claims 10 and 14 do not require amendment because proper antecedent basis for "the angle" in these claims is found in amended claim 8, from which claims 10 and 14 depend. Therefore, Applicants respectfully request reconsideration and withdrawal of this rejection.

The Top Side

Claims 1 and 4 stand rejected for lacking antecedent basis for "the top side." The Examiner suggested amending the claims to more properly recite "a top side." Applicants have amended claim 1 per the Examiner's suggestion. Applicants respectfully assert, however, that claim 4 does not require amendment because proper

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antecedent basis for “the top side” in this claim is found in amended claim 1, from which claim 4 depends. Therefore, Applicants respectfully request reconsideration and withdrawal of this rejection.

The Rear Wall

Claims 1 and 4 stand rejected for lacking antecedent basis for “the rear wall.” The Examiner suggested amending the claims to more properly recite “a rear wall.” Applicants have amended claim 1 per the Examiner’s suggestion. Applicants respectfully assert, however, that claim 4 does not require amendment because proper antecedent basis for “the rear wall” in this claim is found in amended claim 1, from which claim 4 depends. Therefore, Applicants respectfully request reconsideration and withdrawal of this rejection.

The Turning Fulcrums

Claim 1 stands rejected for lacking antecedent basis for “the turning fulcrums.” Applicants have amended claim 1 to more particularly point out and distinctly claim “...a required angle by turning fulcrums respectively formed...” Therefore, Applicants respectfully request reconsideration and withdrawal of this rejection.

The Upper Side

Claim 7 stands rejected for lacking antecedent basis for “the upper side.” The Examiner suggested amending the claim to more properly recite “an upper side.” Applicants have amended claim 7 per the Examiner’s suggestion and, therefore, respectfully request reconsideration and withdrawal of this rejection.

The Hand Operated Actuator

Claim 14 stands rejected for lacking antecedent basis for “the hand operated actuator.” Applicants have amended claim 14 to more particularly point out and distinctly claim the invention by reciting “...wherein the actuator is a hand actuator...” Therefore, Applicants respectfully request reconsideration and withdrawal of this rejection.

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The Current Angle

Claim 21 stands rejected for lacking antecedent basis for "the current angle." The Examiner suggested amending the claims to more properly recite "a current angle." Applicants have amended claim 21 per the Examiner's suggestion and, therefore, respectfully request reconsideration and withdrawal of this rejection.

Applicants thank the Examiner for making all of the suggestions discussed above and submit that the amendments to claims 1, 7, 8, 14 and 21 discussed herein are neither narrowing amendments nor amendments made for the purposes of patentability. Therefore, no equivalences are intended to be surrendered by the making of these amendments.

IV. Rejections Under 35 U.S.C. §102(b)

Claims 8-11 and 13-22 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,533,557 issued to Jedlicka et al. ("Jedlicka").

Applicants submit that Jedlicka fails to disclose each and every element of amended claims 8 and 21. Specifically, Applicants respectfully assert that Jedlicka has been incorrectly read to disclose "a drive mechanism," as recited in claims 8 and 21. Rather, Applicants submit that Jedlicka simply discloses a plurality of interrelated bracket-type components represented by reference numerals 23, 27, 47, 75, 89, 91, 113, 118, 127, 129 and a plurality of knobs represented by reference numerals 39, 55, 85, 93, 125, 133, 137.

As stated throughout the Jedlicka reference and depicted in the figures, the knobs threadingly engage threaded fasteners. The knobs can be rotated and loosened to allow the various brackets to be adjusted. Additionally, the knobs can be tightened to engage the brackets and eliminate movement thereof. (See, e.g., Jedlicka at Col. 6, lines 31-51; Col. 7, line 59 to Col. 8, line 8 with reference to FIGS. 8 and 9; and Col. 8, lines 50-61 with reference to FIGS. 10 and 11.)

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Applicants respectfully assert that the combination of brackets and threaded fasteners disclosed in Jedlicka do not comprise a “drive mechanism,” as recited in claims 8 and 21, but rather, a plurality of locking mechanisms. Each of the plurality of knobs are manipulated or tightened to engage the brackets, thereby securing them into a desired position. Alternatively, the knobs may be manipulated or loosened to disengage the brackets, thereby allowing relatively free displacement of the brackets. Thus, Jedlicka fails to disclose any feature that “drives” the adjustment of a fence or stop plank.

Additionally, Applicants respectfully assert that Jedlicka fails to disclose “an actuator for operating the drive mechanism to adjust the angle of the stop plank such that rotational displacement of the actuator correlates with angular displacement of the stop plank,” as recited in amended claim 8. Specifically, as stated above, Jedlicka simply discloses a plurality of fasteners operable to lock one or more brackets in one of a plurality of positions relative to each other. Rotational displacement of the knobs, which the Examiner has identified as “actuators” (*See* Office Action at Page 5, line 3), does not correlate with angular displacement of the brackets or the fence. Rather, once the knobs of the fasteners are manually loosened by an operator, the operator must then apply a substantially uni-directional external force either directly to one of the brackets or one of the knobs to adjust the relative position of the brackets and ultimately the fence. Applicants submit that Jedlicka fails to disclose any correlation between rotational displacement of the knobs and angular displacement of the fence or stop plank, as recited in amended claim 8.

Thus, Applicants respectfully submit that Jedlicka fails to teach each and every element of amended claims 8 and 21 and, therefore, claims 8 and 21 should be in condition for allowance. Furthermore, Applicants submit that claims 9-11, 13-20 and 22-24 should be in condition for allowance as being dependent upon an allowable base claim. Applicants respectfully request reconsideration and withdrawal of this rejection.

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V. Allowable Subject Matter

Applicants note with appreciation the Examiner's determination that claims 2, 3, 5, 6 and 12 contain allowable subject matter and would be allowable if rewritten in independent form and amended to overcome any 35 U.S.C. §112, second paragraph, rejections. (See Office Action, page 9). Additionally, Applicants note with appreciation the Examiner's determination that claims 1, 4 and 7 contain allowable subject matter and would be allowable if re-written in the same scope and to overcome the 35 U.S.C. §112 rejections. (See Office Action, page 4).

In light of the foregoing amendments and remarks discussed above in Section II, Applicants submit that claims 1-7 have been appropriately amended to overcome the Examiner's 35 U.S.C. §112, second paragraph, rejections. Therefore, claims 1-7 and 12 should be in condition for allowance. Finally, as these amendments have slightly changed the wording of the claims, and specifically the language cited by the Examiner, Applicants will not address the specific statement of reasons for allowance until a Notice of Allowance is received.

VI. New Claims

New claims 23-28 have been added for examination. Claims 23 and 24 depend from claim 21 (either directly or indirectly) and are allowable for the reasons discussed above with respect to claim 21 (*see* Section IV above). Claims 25 is in independent form and claims 26-27 depend therefrom. Claims 25-27 recite "a drive mechanism operably connected to the stop plank for adjustment of an angle of the stop plank relative to the work surface" and should therefore be allowable for the reasons discussed above with respect to Claims 8 and 21 (*see* Section IV above). Furthermore, claims 26 and 27 state that the "drive mechanism includes at least one gear operably connected to the stop plank for adjusting the angle of the stop plank relative to the work surface." Applicants submit that this defines over the art of record for the reasons specified by the Examiner.

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More particularly, as stated in the Office Action at page 10, line 14, Jedlicka "fails to disclose any gearing." Therefore, Jedlicka fails to teach each and every element of claim 23. Additionally, Applicants submit that Eschenburg (U.S. Patent No. 2,872,957), which was discussed by the Examiner in the Office Action, fails to disclose such a feature. As stated by the Examiner, Eschenburg merely "teaches adjustment of the angle stop planar/abutment made via a locking bolt (68), nut (70) and handles (71, 75)." Office Action at page 10, lines 5-6.

Therefore, Applicants respectfully submit that neither Jedlicka nor Eschenburg, alone or in combination, teach or suggest each and every limitation of new claims 25-27 and thus, new claims 25-27 should be in condition for allowance.

Furthermore, Applicants submit that new claim 28, which indirectly depends from claim 8, should also be in condition for allowance for the reasons discussed above with respect to Claim 8 (*see* Section IV above).

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VII. Conclusion

Applicant believes that all stated grounds of rejection have been properly traversed, accommodated, or rendered moot and, the current application including claims 1-28 should be in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested.

Respectfully submitted,
FITCH, EVEN, TABIN & FLANNERY

Dated: April 3, 2006


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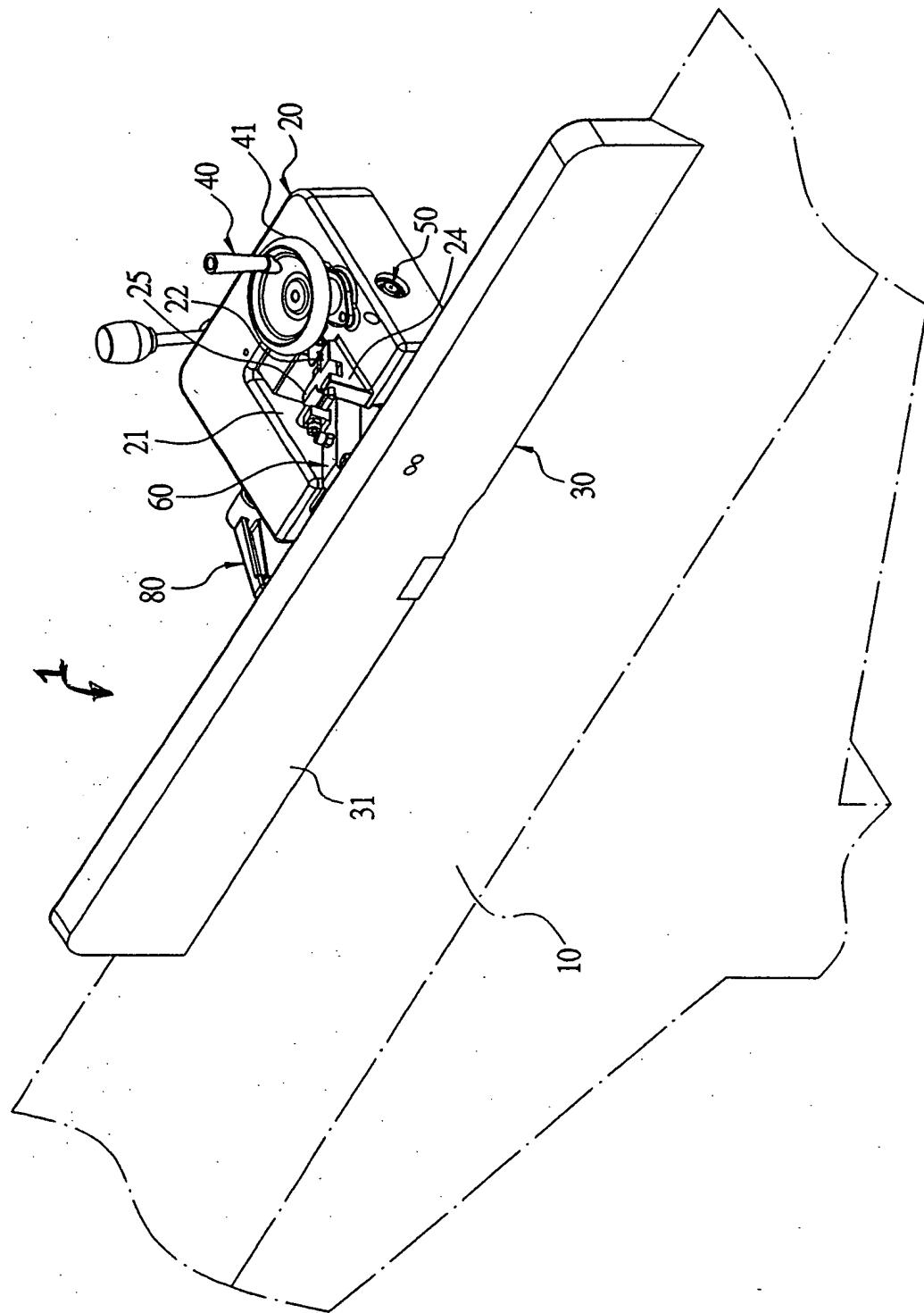


FIG. 1